

**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE  
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)  
032751-016

In re Application of: Jean-Luc IMLER et al.

Application No.: 09/218,143

Filed: December 22, 1998

For: DEFECTIVE ADENOVIRUSES AND CORRESPONDING COMPLEMENTATION LINES

The owner\*, Transgene S.A. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending second application, Application Number 09/739,007, filed on December 19, 2000, the term being defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.


Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

April 12, 2001  
Date

  
Signature

Susan M. Dadio  
Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.37(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See MPEP § 324.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of )  
Jean-Luc IMLER et al. ) Group Art Unit: 1632  
Application No.: 09/218,143 ) Examiner: S. Priebe  
Filed: December 22, 1998 )  
For: DEFECTIVE ADENOVIRUSES AND )  
CORRESPONDING )  
COMPLEMENTATION LINES )

**SUBMISSION OF TERMINAL DISCLAIMER**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Attached please find an executed Terminal Disclaimer in connection with the application identified above.

A check for [ ] \$55.00 (248) [X] \$110.00 (148) to cover the requisite Government fee is also attached. The Commissioner is authorized to charge any fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: Susan M. Dadio  
Susan M. Dadio  
Registration No. 40,373

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620

Date: April 12, 2001

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

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032751-016

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The owner\*, Transgene S.A. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,040,174. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

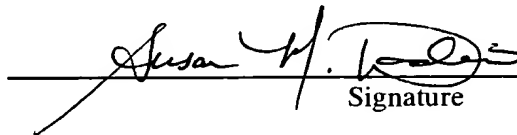
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2. ☒ The undersigned is an attorney of record.

April 12, 2001

Date

  
Signature

Susan M. Dadio

Typed or printed name

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this statement. See M.P.E.P. § 324.